

RECORDATION NO. 11821 ^C FILED 1425

MAY 21 1980 - 10 30 AM

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF LEASE

Dated as of March 15, 1980

between

EXCHANGE NATIONAL BANK OF CHICAGO,
not in its individual capacity but solely
as Trustee under a Trust Agreement dated as
of March 15, 1980 with Security Pacific
Equipment Leasing, Inc.,

as Vendee

and

LASALLE NATIONAL BANK,

as Agent

750 ONE HUNDRED-TON
STEEL COVERED HOPPER CARS

ASSIGNMENT OF LEASE dated as of March 15, 1980 between EXCHANGE NATIONAL BANK OF CHICAGO, not in its individual capacity but solely as Trustee (hereinafter, together with its successors and assigns, called "Vendee") under a Trust Agreement dated as of the date hereof (hereinafter called the "Trust Agreement") with SECURITY PACIFIC EQUIPMENT LEASING, INC. (hereinafter called "Owner"), and LASALLE NATIONAL BANK, as Agent (hereinafter, together with its successors and assigns, called "Assignee") under a Finance Agreement dated as of the date hereof (hereinafter called the "Finance Agreement") among Vendee, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY (hereinafter called "Lessee"), Owner and the institutions named in Annex A thereto (hereinafter, together with their successors, assigns and transferees, called "Investors").

WHEREAS, Vendee is entering into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the "Conditional Sale Agreement") with National Steel Car Corporation, Limited (hereinafter called "Builder") and North American Car Corporation (Canadian Railcar Division) (hereinafter called "NAC") covering the sale and delivery by Builder to NAC, and the sale and delivery by NAC to Vendee, on the terms and conditions therein set forth, of the railroad equipment described in Annex B thereto (hereinafter called the "Equipment");

WHEREAS, Builder, NAC and Assignee are entering into an Agreement and Assignment dated as of the date hereof (hereinafter called the "Conditional Sale Assignment") assigning to Assignee the security interest of NAC under the Conditional Sale Agreement and certain other rights, remedies and interests of Builder and NAC, respectively, thereunder as security for the payment of indebtedness under the Conditional Sale Agreement;

WHEREAS, Vendee and Lessee are entering into a Lease of Railroad Equipment dated as of the date hereof (hereinafter, together with all amendments and supplements thereto, called the "Lease") providing for the lease of all the units of the Equipment, or such lesser number as are delivered, accepted and settled for under the Conditional Sale Agreement, at the rentals, for the term and upon the conditions therein stated (such number of units as are delivered, accepted and settled for under the Conditional Sale Agreement being hereinafter called the "Units"); and

WHEREAS, in order to provide further security for the payment of indebtedness under the Conditional Sale Agreement and as an inducement to Investors to invest in the Conditional Sale Indebtedness (as defined in the Conditional

Sale Agreement), Vendee desires to assign to Assignee for security purposes certain of Vendee's rights as lessor in, to and under the Lease, to which Lessee will consent pursuant to the Consent dated as of the date hereof.

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

SECTION 1. Vendee hereby assigns, transfers and sets over unto Assignee, as security for the payment and performance of the obligations of Vendee under the Conditional Sale Agreement, all Vendee's right, title, interest, powers, privileges and other benefits under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by Vendee under or pursuant to the provisions of the Lease, whether as rent, casualty payment, indemnity (except amounts which by the express terms of Section 6 or 9 are payable directly to Vendee or Owner), liquidated damages or otherwise (such moneys being hereinafter called the "Payments"), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease and to do any and all other things whatsoever which Vendee as lessor is or may become entitled to do under the Lease. In furtherance of the foregoing assignment and transfer, Vendee hereby authorizes and empowers Assignee, in Assignee's own name or in the name of Assignee's nominee, or in the name of or as attorney hereby irrevocably constituted for Vendee as lessor, to ask, demand, sue for, collect, receive and enforce any and all sums to which Assignee is or may become entitled under this Assignment and compliance by Lessee with the terms and agreements on its part to be performed under the Lease and to endorse any checks or other instruments received in connection therewith.

Assignee agrees to accept any Payments made by Lessee for the account of Vendee as lessor pursuant to the Lease and to acknowledge receipt of such payments. To the extent received, Assignee will apply such Payments to satisfy the obligations of Vendee under the Conditional Sale Agreement, subject to the limitations contained in the last paragraph of Article 4 of the Conditional Sale Agreement. If Assignee shall not receive any rental payment under the first paragraph of Section 3 or any Casualty Value payment under Section 7 of the Lease when due, Assignee shall notify Vendee at the address set forth in the Lease, but the failure of Assignee so to notify Vendee shall not diminish or in any way affect Assignee's rights hereunder or under the Conditional Sale Agreement or the Lease.

SECTION 2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject Assignee to, or transfer, or pass, or in any way affect or modify, the liability of Vendee under the Lease, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment, all obligations of Vendee to Lessee, under the Lease or otherwise, shall be and remain enforceable by Lessee only against Vendee or persons other than Assignee.

SECTION 3. To protect the security afforded by this Assignment, Vendee further agrees as follows:

(a) Vendee will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by Vendee (other than any act or omission in respect of which Lessee has assumed responsibility under the Lease); and, without the express written consent of Assignee, Vendee will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge Lessee thereunder of or from the obligations, covenants, agreements, terms and provisions to be performed by Lessee, including, without limitation, the obligation to pay the rentals in the manner and at the times and place specified therein, or enter into any agreement amending, modifying or terminating the Lease; and Vendee agrees that any amendment, modification or termination thereof without such consent shall be void;

(b) at Vendee's sole cost and expense (subject to Articles 4 and 21 of the Conditional Sale Agreement), Vendee will appear in and defend every action or proceeding arising under, growing out of or in any manner connected with the obligations, duties or liabilities of Vendee under the Lease if such action or proceeding shall arise out of the willful misconduct or gross negligence of Vendee;

(c) should Vendee fail to make any payment or to do any act which this Assignment requires Vendee to make or do, then Assignee may (but shall not be obligated), after first making written demand upon Vendee and affording Vendee a reasonable period of time within which to make such payment or do such act, and without releasing Vendee from any obligation hereunder or under the Lease, make such payment or do such act in such

manner and to such extent as Assignee may deem necessary to protect the security interest created hereby, including, without limitation, the right to appear in and defend any action or proceeding purporting to affect the security interest created hereby or the rights or powers of Assignee and also the right to perform and discharge each and every obligation, covenant and agreement of Vendee contained in the Lease; and in exercising any such powers, Assignee may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and Vendee will reimburse Assignee for such costs, expenses and fees.

SECTION 4. Upon the full discharge and satisfaction of all Vendee's obligations under the Conditional Sale Agreement and Lessee's obligations to Assignee under the Lease, this Assignment and all rights herein assigned to Assignee shall terminate, and all estate, right, title and interest of Assignee in and to the Lease shall revert to Vendee. Assignee hereby agrees that it will, at the request of Vendee or its successors or assigns, make, execute and deliver all such instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate to give effect to the terms of this Assignment and the reversion of all estate, right, title and interest of Assignee in and to the Lease.

SECTION 5. Vendee represents and warrants that Vendee has not executed any other assignment of the Lease and its right to receive all payments under the Lease is and will continue to be free and clear of any and all liens, charges, security interests or other encumbrances (except this Assignment) created, incurred, assumed or suffered as a result of any act or omission on the part of Vendee (other than any act or omission in respect of which Lessee has assumed responsibility under the Lease), and Vendee has not and will not receive any advance rental payment under the Lease.

SECTION 6. Assignee may, in accordance with the provisions of the Finance Agreement, assign all or any of its rights under the Lease, including the right to receive any Payments due or to become due thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, and upon giving by Assignee of written notice of such assignment to Vendee and by Vendee of the written notice required in Section 12 of the Lease, enjoy all the rights and privileges and be subject to all the obligations of Assignee hereunder.

SECTION 7. Vendee hereby agrees that it will from time to time and at all times, at the request of Assignee or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to Assignee or intended so to be, including the execution and acknowledgment of any instrument necessary or appropriate to file, record, register or deposit this Assignment or notice hereof.

SECTION 8. Vendee shall cause copies of all notices received in connection with the Lease to be promptly delivered to Assignee at its address set forth in Article 20 of the Conditional Sale Agreement, or at such other address as Assignee shall designate in writing.

SECTION 9. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by 49 United States Code §11303(a) and Section 86 of the Railway Act of Canada and such additional rights arising out of the filing, recording, registering or depositing, if any, of the Lease or this Assignment as shall be conferred by the laws of the several jurisdictions in which the Lease or this Assignment shall be filed, recorded, registered or deposited.

SECTION 10. Assignee hereby agrees with Vendee that Assignee will not, so long as no Default or Event of Default under the Conditional Sale Agreement or no Default or Event of Default under the Lease has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits assigned and transferred by Vendee to Assignee by this Assignment, except the right to receive and apply the Payments as provided in Section 1, and that, subject to the terms of the Lease and the Conditional Sale Agreement, Vendee may, so long as no Default or Event of Default under the Conditional Sale Agreement or Default or Event of Default under the Lease has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, such rights, powers, privileges, authorizations or benefits; provided, however, that Vendee shall not amend, modify or terminate the Lease.

SECTION 11. Each and all of the representations, warranties and agreements herein made on the part of Exchange National Bank of Chicago as Vendee are made and intended not

as personal representations, warranties and agreements by Exchange National Bank of Chicago or for the purpose or with the intention of binding Exchange National Bank of Chicago personally but are made and intended for the purpose of binding only the Estate (as such term is defined in the Trust Agreement) and this Assignment is executed and delivered by Exchange National Bank of Chicago solely in the exercise of the powers expressly conferred upon Exchange National Bank of Chicago as Trustee under the Trust Agreement; and no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against Exchange National Bank of Chicago on account of any representation, warranty or agreement herein of Vendee (except in the case of gross negligence or willful misconduct), either express or implied, all such personal liability, if any, being expressly waived and released by Assignee and by all persons claiming by, through or under Assignee; provided, however, that Assignee or any person claiming by, through or under Assignee making claim hereunder may look to the Estate for satisfaction of the same.

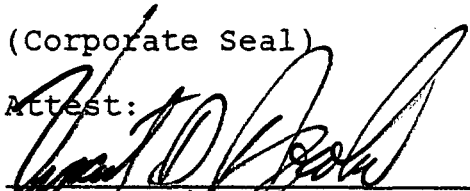
SECTION 12. This Assignment may be executed in any number of counterparts, but the counterpart delivered to Assignee shall be deemed to be the original counterpart. Although this Assignment is dated as of March 15, 1980 for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this Assignment to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

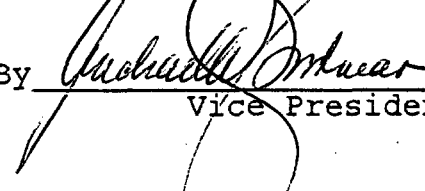
EXCHANGE NATIONAL BANK OF CHICAGO,
not individually but
solely as Trustee under
a Trust Agreement dated
as of March 15, 1980 with
Security Pacific Equipment
Leasing, Inc., as Vendee

(Corporate Seal)

Attest:

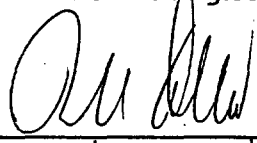

Assistant Secretary
ASSISTANT TRUST OFFICER

By



Vice President

LASALLE NATIONAL BANK,
as Assignee

(Corporate Seal)

By 
Vice President

Attest:


Corporate Trust Officer

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

On this 15 day of May, 1980, before me personally appeared MICHAEL D. GOODMAN to me personally known, who, being by me duly sworn, said that he is a Vice President of Exchange National Bank of Chicago, that one of the seals affixed to the foregoing instrument is the corporate seal of said association and that said instrument was signed and sealed on behalf of said association by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said association.

Susan J. Tuckman
Notary Public

(Notarial Seal)

My commission expires

8/14/82

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

On this 15th day of May, 1980, before me personally appeared E. L. WEBER, to me personally known, who, being by me duly sworn, said that he is a Vice President of LaSalle National Bank, that one of the seals affixed to the foregoing instrument is the corporate seal of said association and that said instrument was signed and sealed on behalf of said association by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said association.

Susan J. Tuck
Notary Public

(Notarial Seal)

My commission expires

August 14, 1982

CONSENT

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, a Delaware corporation ("Lessee"), the Lessee named in the Lease of Railroad Equipment ("Lease") referred to in the foregoing Assignment of Lease ("Assignment"), hereby acknowledges receipt of a copy of the Assignment, consents to all the terms and conditions thereof and agrees as follows:

(1) subject to the terms and conditions of the Assignment, to make all Payments (as defined in the Assignment) due and to become due to "Lessor" under the Lease directly to the Assignee ("Assignee") named in the Assignment, to be applied as provided in the Assignment, by bank wire transfer of immediately available funds to LaSalle National Bank, Corporate Trust Department, at 135 South LaSalle Street, Chicago, Illinois 60690, account No. 61-5555-30-7 (or to such other address or account number as may be furnished in writing to Lessee by Assignee);

(2) subject to the terms and conditions of the Assignment, that Assignee shall be entitled to the benefits of, and to receive and enforce performance of, all of the obligations, covenants and agreements to be performed by Lessee under the Lease as though Assignee were named therein as "Lessor";

(3) agrees that Assignee shall not, by virtue of the Assignment or this Consent, be or become subject to any liability or obligation under the Lease or otherwise;

(4) agrees that in any suit, proceeding or action brought by Assignee under the Lease for any installment of, or interest on, any rental or other sum owing thereunder, or to enforce any provisions of the Lease, Lessee will indemnify, protect and hold harmless Assignee from and against all expense (including without limitation counsel fees), loss or damage suffered by reason of any defense, set-off, counterclaim or recoupment whatsoever claimed by Lessee arising out of a breach by the Vendee named in the Assignment ("Vendee") of any obligation under the Lease or arising by reason of any other indebtedness or liability at any time owing to Lessee from Vendee, any and all such obligations being enforceable against and only against Vendee and not enforceable against Assignee or any person or persons in whom any of the rights of Vendee under the Lease shall vest by reason of this Assignment or of successive assignments or transfers; and

(5) agrees that the Lease shall not, without the prior written consent of Assignee, be amended, modified or terminated, or any action be taken or omitted which might result in any alteration or impairment of the obligations of Lessee under the Lease, the obligations of Vendee under the Assignment or the obligations of Lessee under this Consent, or of any of the rights created by any thereof.

This Consent shall be governed by the laws of the State of Illinois.

This Consent may be executed in several counterparts, each of which when so executed shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

Dated as of March 15, 1980

THE ATCHISON, TOPEKA AND
SANTA FE RAILWAY COMPANY

[Corporate Seal]

by *R. J. Harper*
Vice President--Finance

Attest:

G. D. Scheckel
Assistant Secretary